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International arms transfers

Report of the Secretary-General

Addendum

CONTENTS

Page

III. INFORMATION RECEIVED FROM GOVERNMENTS

Australia 2

Chile 5

Colombia 5

Lithuania 8

Niger 10

Poland 11

Thailand 12

Togo 14

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AUSTRALIA

[Original: English]

[11 August 1992]

1. The commitment of the Government of Australia to enhance transparency in arms transfers is reflected in the publication by the Government of Australia and wide distribution, including internationally, of Australia's national controls on exports and imports of arms. Australia's principal controls are:

(a) The "Australian Controls on the Export of Defence and Related Goods: Guidelines for Exporters: March 1992" (hereafter DEG) (see attachment A). These detail the regulations and procedures relating to the exports of conventional arms specifically listed in the guidelines.

(b) The "Australian Controls on the Export of Technology with Civil and Military Applications: A guide for Exporters and Importers: October 1991" (hereafter DUTC) (see attachment B). These detail the regulations and procedures relating to the export and import of dual-use technology in the areas of concern to the Missile Technology Control Regime, the Nuclear Suppliers Group, and The Australia Group and in accordance with relevant international agreements.

2. An abbreviated catalogue of these and other non-proliferation controls is outlined in "Australia's strategic export controls: May 1992" (see attachment C).

3. The Australian Government is concerned about preventing illicit arms transfers, and this is reflected in the strict end-use certification required of Australian exporters and penalties for breach of the relevant controls. Australia has also demonstrated a willingness to observe the end-use certification procedures of other countries.

4. As to the specific requests for information contained in the relevant resolution, the information given below will be useful.

Legislation and regulation

Exports

5. The policy of the Government of Australia to control the export of conventional defence and related goods is implemented through the Customs Act 1901 and the Customs (Prohibited Exports) Regulations. Regulation 13 B specifies that defence and related goods listed in Schedule 13 to the Regulations can only be exported from Australia with the permission of the Minister for Defence or a person authorized by the Minister to issue permits and licences. The four types of goods covered by this regulation are detailed in page 1 of DEG (see attachment A).

6. Australian controls are, moreover, consistent with United Nations Security Council arms embargos on exports to Libya, South Africa, Iraq, the former Yugoslavia and Somalia.

7. Controls on nuclear and related goods, dual-use technology and chemical precursors are administered separately and controlled under Customs (Prohibited Exports) Regulations: Regulation 11, Schedule 9; Regulation 13 E; and Regulation 13 D, Schedule 15, respectively (see attachment D). Controls on nuclear-related goods are administered by the Department of Primary Industries and Energy, those on the export of chemical compounds by the Department of Foreign Affairs and Trade and those on dual-use goods by the Department of Defence.

8. The development, production and stockpiling of certain biological agents and toxins and weapons for their delivery are prohibited by the Crimes (Biological Weapons) Act 1976 (see attachment E). Australia is currently working towards introducing export controls on particular biological agents, genetically modified organisms, toxins and dual-use equipment.

Illicit transfers

9. The export of military and related goods normally requires the provision of an End-Use and Non-Transfer Certificate, or equivalent documentation, from the importer and the importing Government through the exporter. An End-Use and Non-Transfer Certificate forms an undertaking by the end-user Government that it will use the goods for the purposes indicated and will not resell or transfer the goods without the written permission of the Australian Minister for Defence. Other documentation, such as an International Import Certificate (IIC), will be acceptable in certain circumstances (see attachment A, p. 9).

Arms imports and procurement

10. The controls relating to arms imports are contained in the Customs (Prohibited Imports) Regulations under Customs Act 1901 (see attachment F). Those Regulations prohibit the import of goods specified in Schedule 2 unless the Minister for Primary Industries and Energy or an authorized person has granted permission. The Act imposes penalties for breach of the import controls.

11. Item 8 of Schedule 2 of these regulations details the types of goods classed as appliances or equipment designed or adapted for warfare or like purposes (see attachment F, pp. 12, 18 and 19) under Customs Act 1901. This item pertains to private importation of warfare appliances and equipment, but not for official purposes (see attachment F, p. 22). The regulations prohibit the import of the goods detailed in Schedule 2 without the permission of the Minister for Primary Industries and Energy.

12. To comply with foreign export regulations, an IIC is issued by the Government of Australia to assist Australian importers in obtaining controlled goods from some foreign countries, particularly in cases where the exporting country insists on certification for export of dual-use technology. Applications for an IIC must identify the importer; the exporter; and the value, volume and purpose of the import. When required by foreign Governments, the Australian authorities will also issue Delivery Verification Certificates to certify that the imports have in fact entered Australia and are subject to Australian export controls (see attachment G, annex A7 and A8).

13. Furthermore, Australian import regulations are consistent with the objectives of United Nations Security Council decisions. Australia observes the mandatory embargoes on arms imports from Iraq and former Yugoslavia.

14. In the case of South Africa, Australia has implemented, in accordance with Security Council resolution 558 (1984), the voluntary arms embargo on imports and enacted it through national legislation (see attachment F, Schedule 7A, Regulation 4Q).

Specific information on illegal trafficking

15. Australian authorities have no reports to make at this time on seizures of arms and military equipment for use by terrorists, drug traffickers, organized crime or mercenaries. However, we would draw attention to the Australian laws relevant to such activities, specifically:

(a) The Crimes (Foreign Incursions and Recruitment) Act 1978, which prohibits the stockpiling or keeping of arms for the purpose of the commission of an offence or engaging in a hostile activity in a foreign State. An offence of this type is punishable with imprisonment for 10 years (see attachment H);

(b) As explained in response to resolution 46/36 L, the Customs (Prohibited Exports) Regulations prohibit the export of defence and related goods without the permission of the Minister of Defence. The DEG detail the criteria upon which the Minister exercises discretion and the procedures to be followed in obtaining permission. Adequate information to make an informed decision on the export must be provided;

(c) The Customs Act 1901 imposes penalties for breaches of export controls (see attachment A, p. 11).

[The attachments referred to in the reply of Australia are indexed and filed and available for consultation by Member States in the Office for Disarmament Affairs.]

CHILE

[Original: Spanish]

[31 July 1992]

1. In this regard, the Permanent Mission of Chile is pleased to attach a copy of Act No. 17.798 on Control of Arms and Explosives, a copy of the Supplementary Regulations thereto, and a copy of Decree No. 80 of the Ministry of National Defence, dated 20 December 1991, whereby an Advisory Committee of the Ministry of National Defence is created to deal with applications for the export of arms and war matériel referred to in the aforementioned act.

2. The Permanent Mission of Chile is also sending herewith a copy of Minute (R) No. 6 of the Investigations Police of Chile, of 4 May 1992, which contains a list of arms and military equipment that were confiscated because they were intended for use by terrorists, drug traffickers, organized criminals and for other types of mercenary activities.

[The above documents have been indexed and filed, and are available for consultation by Member States in the Office for Disarmament Affairs.]

COLOMBIA

[Original: Spanish]

[30 September 1992]

1. The following information is provided in response to paragraph 5 of General Assembly resolution 46/36 H and paragraph 18 of General Assembly resolution 46/36 L, which invite Member States to provide the Secretary-General with relevant information on their laws, regulations and administrative procedures on arms exports, imports and procurement, as regards both authorization of arms transfers and prevention of the illicit arms trade.

2. It is well known that elements hostile to the legally established institutions have stepped up their use of fraudulent procedures in an effort to destabilize government organizations in Colombia and create chaos and anarchy in the country.

3. As a result, all parts of the defence sector have been forced to revise their operational and administrative procedures, using uniform criteria and setting guidelines so as to eliminate the risk of surprise, tampering with documents or disregard and circumvention of procedures.

4. For the purchase of restricted equipment, especially arms, the Ministry of Defence stipulated that in future the general guidelines for the importation of arms (decree 695 of 1983, para. 1.3.8) must be strictly

observed by the bodies involved at different levels of organization, namely the Armed Forces General Command, Force Commands, Police Headquarters, decentralized agencies and cabinet offices, and that the criteria and procedures set out below must be followed:

A. Purchase of arms using national budget resources or domestic funds in national currency

1. All arms purchases in this category must be conducted through the Military Industry (INDUMIL).

2. The Force Commands and National Police Headquarters shall at all times work in coordination with the Military Industry to facilitate the purchase of armaments in a timely and flexible manner.

3. For those purchases where the country of origin requires an end-use certificate, it shall be transmitted by the Military Industry to the Ministry of Defence, using the appropriate form signed and stamped by the Ministry.

B. Arms purchases with public resources

1. Existing procedures shall continue to apply to the negotiation and conclusion of contracts.

2. With regard to the end-use certificate, the commander of the force concerned shall sign the form and transmit it for signature to the Ministry of Defence.

C. Purchase of armaments with internal dollar resources

1. For purchases in this category, the Force Command shall provide the relevant department of the Ministry of Defence with detailed information on each purchase, with the relevant supporting documents including contracts, invoices, receipts, tenders, etc.

2. The end-use certificate shall be signed by the Force Commander and submitted for signature by the Ministry of Defence.

D. Tasks assigned to the Military Industry (INDUMIL)

Whenever INDUMIL is involved in the purchase of arms for the Ministry of Defence it shall carry out the following funtions:

1. Exercise permanent and centralized control over all purchases, and all the details thereof, such as quantities, technical specifications, price, country of purchase, country of origin, etc.

2. Keep this information updated and organized for easy reference, for which purpose electronic processing systems shall be used.

3. Verify the authenticity and accuracy of all documents forming part of the relevant contracts.

4. Monitor compliance with the rules contained in this Decree.

5. Submit a monthly report to the Ministry of Defence on arms purchases currently being transacted, with a clear indication of any special features which should be brought to the Ministry's attention.

6. Maintain a centralized data bank on armaments purchased by the various departments of the Ministry of Defence, coordinating this activity with the armed forces.

7. Create an armaments database for its own reference purposes and for those of the office of the Armed Forces General Command.

E. General coordination activities

1. The various departments involved in purchasing shall ensure that an end-use certificate is issued only when required in the bid of the successful bidder, in which csae it shall be included as a document forming part of the contract.

2. When suppliers require end-use certificates under the contracts established earlier by the countries of origin of the goods, such certificates shall also be transmitted to the Ministry of Defence, signed by the commander of the relevant branch of the armed forces on the certificate if possible, or otherwise with his approval certified in an attached note.

3. When INDUMIL cannot satisfy a request from a branch of the armed forces for purchase of arms, recourse shall be had to the revolving funds in accordance with the provisions of Decree 2353 of 1971, article 28, paragraph 5.

4. In the case described in paragraph 3 special care shall be taken to ensure that the end-use certificate is also transmitted to the Ministry of National Defence by the importing body after approval and signature by the commander of the branch using the item.

5. In the case of purchases not made through INDUMIL (in accordance with sections B and C) the Ministry of Defence, through the General Secretariat of the Planning Office, shall furnish the relevant information as soon as the contract has been completed, for the purposes envisaged in section D of this Decree.

6. The General Secretariat of the Planning Office shall monitor the issue of end-use certificates, by each branch and in total.

7. The provisions of circular 7254, MDPLJ-201 of 17 November 1987 concerning imports of military or classified equipment remain in force, with the addition that, when INDUMIL imports armaments it shall comply with the provisions of Nos. 1 and 2 of the circular.

8. The Armed Forces General Command shall make arrangements to ensure that the relevant offices in diplomatic missions perform the following functions:

(a) Verify and confirm with the Ministry of Defence the authenticity of end-use certificates issued and submitted to the embassies in question;

(b) Verify the existence of the companies manufacturing and exporting the arms;

(c) In the training courses for military attachés conducted by the Escuela Superior de Guerra (Higher Military School), ensure that trainees are given instructions about these functions.

F. Procedure for handling of certificates

1. End-use certificates shall be drawn up on pre-numbered security paper and shall be sent to the respective branches of the armed forces and to INDUMIL when they become available.

2. These units shall be responsible for the safe keeping and use of the forms which they receive.

3. In the event of loss, a report indicating the numbers of the forms and the administrative action taken shall be submitted, and in the case of damage, the corresponding originals shall be returned.

(The information given above was provided by the Ministry of Defence of Colombia.)

The Permanent Representative of Colombia to the United Nations requests the Secretary-General, in accordance with paragraph 7 of General Assembly resolution 46/36 H, to make the necessary arrangements for Member States to be able to obtain the information referred to in paragraph 5 of the resolution.

LITHUANIA

[Original: English]

[18 August 1992]

1. The acquisition, trade, storage, transportation and usage of arms in the Republic of Lithuania is regulated by the Penal Code and the Administrative Code of the Republic of Lithuania, as well as by governmental regulations and instructions.

2. There are a number of articles in the Penal Code of the Republic of Lithuania establishing criminal responsibility for illegal trade in arms, their storage and usage. Article 77 of the Penal Code provides for criminal responsibility for the smuggling of arms. Malicious employment of a firearm

when the use of a gun is an aggravating circumstance incurs responsibility in accordance with article 225, section 3. Article 234 establishes criminal responsibility for the illegal possession of firearms, ammmunition and explosives, their storage, acquisition, production and sale.

3. Article 234, sections 1 and 4, of the Penal Code stipulate the responsibility for plunder of firearms and supplies to criminal groups. The remaining sections of article 234 establish responsibility for careless storage of firearms, as well as loss or damage of weapons and ammunition issued for official use.

4. Articles 194, 195, 196 and 197 of the Administrative Code of the Republic of Lithuania stipulate administrative responsibility for the violation of the terms of acquisition of firearms, their storage, sale and registration.

5. In accordance with resolution No. 587 of 24 December 1991, of the Government of the Republic of Lithuania, citizens of Lithuania are allowed to acquire and possess sporting guns and ammunition for self-defence. The resolution also permits trading firms to sell sporting guns, gas canisters and compressed gas weapons provided that they have received authorization from the Ministry of Internal Affairs.

6. Government resolution No. 340 of 12 May 1992 establishes the rules and procedure for the transport of ammunition into the Republic of Lithuania by citizens of foreign countries and employees of their personal guard.

7. On 2 January 1992, the Minister for Internal Affairs approved regulations on the acquisition, transport, storage, inventory and use of firearms and ammunition, the production of starter pistols and other weapons that fire blanks, the opening of firing ranges, the establishment of hunting stands and workshops for arms repair, trade in firearms and ammunition, the acquisition of hunting knives, the storage and acquisition of compressed gas weapons and gas canisters, their inventory and terms of trade. The instructions establish the procedure for the classification of arms according to the type of usage and establish the responsibility of police commissariats in the area of firearms control. The instructions regulate the transportation and shipment of arms and ammunition belonging to organizations, as well as the maximum quantities of ammunition that are permitted to be transported. Regulations also outline the procedure for the issuance of permits for the acquisition and storage of arms and ammunition as well as the procedure for the registration of personal firearms and their storage. The regulations also provide for cases when personal firearms may be impounded by police commissariats.

8. The implementation of adopted laws and regulations is hindered by the presence of the military of the former Union of Soviet Socialist Republics, now under the jurisdiction of the Russian Federation, on the territory of the Republic of Lithuania. On 15 January 1992, the Government of the Republic of Lithuania adopted resolution No. 28 on the strengthening of control of provisional limitations for the export of food and other goods, which states

that "the army of the former USSR, when transferring commodities and other property across the borders of the Republic of Lithuania, must make known these actions according to established procedure and present documents of acquisition of goods (and, in cases set forth by the Government of the Republic of Lithuania, passes), issued by the Government or Ministry of National Defence in accordance with procedures established by the Government, for the export of military technology, inventory or other property". The Government of the Republic of Lithuania, however, is unable to guarantee that the military presently under the jurisdiction of the Russian Federation is not engaging in activities that violate these regulations.

9. The laws and regulations governing the import and export of arms and the terms of their usage within the territory of the Republic of Lithuania, referred to above, and the practice of their application illustrates the need to establish an export-import control system. The legal foundation for this system in the Republic of Lithuania is currently being prepared. In order to complete this task the Lithuanian Government would welcome any assistance and expertise the United Nations may be able to provide in this regard.

NIGER

[Original: French]

[7 October 1992]

1. The Government of Niger, in reply to the request of the Secretary-General, has supplied the following documents:

(a) Decree No. 63-074/MI of 23 April 1963 regulating conditions for the possession, import and transfer of trade in hunting weapons and firearms in the territory of the Republic of the Niger, not including weapons for forces or the police;

(b) Order No. 567/MI of 5 July 1963 establishing quotas for imports of arms and munitions and establishing regulations for the issue of licences for purchases by individuals;

(c) Order No. 429 of 30 November 1969 amending order No. 567/MI/AI of 5 July 1963 establishing quotas for imports of arms and munitions and establishing regulations for the issue of licences for purchases by individuals.

POLAND

[Original: English]

[3 August 1992]

1. According to Polish law (Republic of Poland, Journal of Laws, 1988, No. 41), manufacturing and transfer of explosive materials, arms and ammunition are subject to concession. All these concessions have to be granted by a central body of national administration such as the Ministry of Foreign Economic Relations. The concessions are also subject to examination by the Ministry of Defence.

2. According to Polish law (Republic of Poland, Journal of Laws, 1992, No. 27), the military and police purposes goods subject to concession are as follows:

Goods and spare parts designed for military and police purposes

1. Explosive materials, pyrotechnical products, pyrophoric amalgams, selected flammable materials;

2. Bombs, grenades, torpedoes, mines, rockets and missiles, ammunition;

3. Tanks and other armoured vehicles, armed or unarmed, and spare parts for these items;

4. Aircraft and helicopters and spare parts for these items;

5. Warships and spare parts for these items;

6. Firearms and ammunition, spare parts and accessories;

7. Special communications systems with cryptographic equipment;

8. Other military goods equipped with lethal devices.

Auxiliary equipment designed for military purposes

1. Equipment and weapon-guiding systems, communications systems surveillance and monitoring systems, navigational systems;

2. Communications equipment;

3. Testing devices;

4. Electronic goods designed for military purposes;

5. Special energy sources;

6. Optical, photo and cinematographic equipment, control and measurement devices designed for military purposes;

7. Transportation vehicles and devices designed for military purposes.

3. There are no data of any illicit arms transfers available yet. Information regarding any arms and military equipment eventually seized by authorities, destined for the use of terrorists, drug traffickers, organized crime and mercenary and other destabilizing activities will be submitted later.

THAILAND

[Original: English]

[22 September 1992]

Law and regulations for export, import and procurement of armaments and weapons systems and illicit arms trade measures

1. With regard to arms export-import programmes, the Royal Thai Armed Forces are guided by the Arms Export Control Act of armament and weapon systems (B.E. 2495(1952)), the Arms Export Control Decree (B.E. 2506(1963)), the Arms Export Control Decree, 2nd Issue (B.E. 2531(1988)), the Weaponry Act, the Customs Act and relevant Cabinet decisions.

2. On the procurement system, the Royal Thai Armed Forces act in accordance with regulations and directives of the Office of the Prime Minister, Cabinet decisions and directives.

3. As to confiscated weapons, some are set aside for educational purposes by the Royal Thai Army, while others form parts of collections in Military Museums.

Import restrictions on firearms into Thailand

4. Imported firearms must be those for which the competent registrars are authorized to issue licences in accordance with ministerial regulation number 11 governing the Firearms Act (B.E. 2490(1947)):

(a) Firearms with groove barrels with calibre not exceeding 11.44 mm;

(b) Firearms without grooves:

(i) Calibre not exceeding 20 mm;

(ii) Muzzle loading, shotgun and signal flares;

(c) Firearms with a mechanism enabling automatic bullet loading for repetitive firing:

(i) Length of barrel is less than 160 mm;

(ii) Shotgun;

(iii) Rifle with calibre not exceeding 5.6 mm;

(d) Firearms with no silencer;

(e) Firearms not to be used with chemical, toxic, germ, fuel or radioactive bullets.

5. Ammunition must be those for which the competent authorities are authorized to issue licences in accordance with article 7 or article 24, which are to be used with the firearms listed in paragraph 4 (b). However, the ammunition must not be armour-piercing or incendiary.

6. Explosives must be those for which competent registrars are authorized to issue licences in accordance with ministerial regulation number 11 governing the Firearms Act (B.E. 2490(1947)).

7. The explosives under authority of the competent registrars to issue licences in accordance with article 38 must be in the categories, types, and sizes specified for construction and industrial use and approved by the Ministry of the Interior.

Regulation governing import and export of firearms and ammunition

Import for commercial purposes

8. According to Ministry of the Interior order No. 109/2535 dated 10 February 1992 (B.E. 2535(1992)), item 3, all gunshops are authorized to have in their stocks the following firearms and ammunition according to size, type, and amount:

(a) Firearms:

(i) Rifles of all types and sizes - not more than 50 pieces for an authorized licence;

(ii) Pistols of all types and sizes - not more than 30 pieces for licence;

(b) Ammunition:

(i) Lead ball ammunition of all types and sizes - not more than 2,000 rounds per licence;

(ii) Shotgun ammunition of all types and sizes - not more than 7,500 rounds per licence;

(iii) Rifle ammunition of all types and sizes - not more than 10,000 rounds per licence;

(iv) Airgun ammunition of all types and sizes - not more than 30,000 rounds per licence.

9. Those who seek to apply for a permit to import firearms and ammunition must hold a licence to set up a gunshop, and application for import must be in accordance with the Firearms Act (B.E. 2490(1947)).

Import by individuals

10. Individuals are not allowed to order or import firearms or ammunition for pistols unless authorized by a competent registrar with the approval of the Minister of the Interior. Import of guns for sports and airguns is permissible.

Import of explosives

11. In every case concerning application for an explosives permit, the competent registrar must receive approval from the Minister of the Interior prior to issuing the permit to the applicant.

12. For removal of explosives from the place where they are kept written permission from the Minister of the Interior must first be obtained.

TOGO

[Original: French]

[6 October 1992]

1. The principal characteristics of current Togolese legislation relating to arms policy are as follows:

(a) Imports into Togo of military equipment are prohibited; this prohibition may only be lifted by special authorization of the Government of Togo for deliveries limited both in quantity and time;

(b) Clauses prohibiting the re-export of military equipment and requiring the presentation of final destination certificates signed by Togo and supplier countries are in force.

2. Furthermore, in 1992, the national defence budget was cut from FCFA 12.644 billion in 1991 to 9.9 billion in 1992, i.e. a reduction of virtually 22 per cent.

3. Lastly, the recommendations of the International Monetary Fund regarding the elimination from the 1992 budget of items for the purchase of vehicles, strategic equipment and munitions, have been scrupulously followed.